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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/306,790	05/07/1999	GREGORY S. PROVOLNY	68223/0122	3957

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EXAMINER

BANANKHAH, MAJID A

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 02/10/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/306,790

Applicant(s)

PROVOLNY ET AL.

Examiner

Majid A Banankhah

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-- The MAILING DATE of this c mmunication appears on the c ver sheet with the correspondence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-45, 51 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-45, 51, 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Pri rity under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This office action is in response to paper No. 11, Amendment B, dated November 12, 2003. Claims 37-45, 51, and 52 are presented for examination. Applicant argument has been fully but they are moot in view of the new ground of rejection.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-45, 51, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadden (U.S.Pat. No. 6,175,933, hereinafter Cadden) in view of Akizawa et al. (U.S.Pat. No., 5,548,724, hereinafter Akizawa).

As to claims 37, 42, 51, and 52 Cadden teaches:

a requesting computer for submitting a request to transfer a data file (Fig.2, *Machine 21 of FIG. 2 includes a file transfer client 24, and machine 22 includes a file transfer server 26, which serves I/O requests for writing to and reading from an I/O device 27. It will be understood that I/O device may be a tape drive or a disk drive, or any I/O device having a storage media on which data may be stored, and which may be written to or read from. Records and recovery information are transferred between the file transfer client 24 and the file transfer server 26 over the transfer path 25, and col. See, Fig. 3a, item 100, client program initialize file transfer, col. 5, lines 46-57*);

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a managing computer for receiving the transfer request and for identifying the location of the data file (*See Fig. 2, item 23, and managing distributed complex task executing within a computer environment, col. 4, lines 27-43*);

a source, identified as having the data file by the managing computer, for receiving transfer request from the managing computer and transferring the data file to a target location (*See, Fig. 2, item 22, file transfer server, Col. 4, lines 4-12, and item 27, the I/O request for writing to and reading from an I/O device 27*); and

a target computer, corresponding to the target location, for receiving the transferred data file from the source computer (Fig. 2, item 21, machine 21, data being transferred, col. 4, lines 20-26).

While the reference of Cadden teaches of the source computer being an I/O device and says “*I/O device may be a tape drive or a disk drive, or any I/O device having a storage media on which data may be stored, and which may be written to or read from*” fails to teach of the source is a computer, consequently fails to explicitly teach of “the requesting computer, managing computer and target computer are separate and independent”. However, the reference of Akizawa, in the same filed of endeavor, teaches of a file system where a specific file server among the plurality of servers to receive the request and receives a file transfer request, identifies the location of the data file, and/or passes the transfer request to that location (*See, Akizawa, Fig. 1, and col. 2, lines 66-68, continued on col. 3, lines 1-26, “in a file server system having a plurality of file servers connected in parallel on a network and sharing files installed distributedly in the file servers among a plurality of client computers, there are provided, in each of the plurality of file servers, a file storage means for storing files, a first communication*

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control means for controlling communication with another file server through the network and a file access control means for receiving a file access request and making file access to the file storage means, and on the other hand, there are provided further in addition to the above, in a specific file server among the plurality of file servers, a second communication control means for controlling communication with the client computer mentioned above, a remote file access processing means for administering communication protocol of the file access request issued from the client computer, a load information monitoring means for measuring respective loads of the plurality of file servers, and a file access request distributing means for selecting a file server making file access from the plurality of file servers by referring to the loads measured by the load information monitoring means, issuing a file access request to the file access control means of its own file server when the selected file server is its own file server, and issuing a file access request to the file access control means of the selected file server through the first communication control means when the selected file server is another file server"). The

MASTER FILE SERVER among the other file servers manage the receiving a file transfer request, identifies the location of the data file, and/or passes the transfer request to that location (See, Fig. 2, file management program, and the magnetic disk unit which could be the source file, element 27 in Cadden), for the reason that when access objective file of respective client computers are stored in separate file servers, it become possible to distribute load, thus improve the access throughput (See Akizawa, col. 1, lines 50-61).

Therefore, it would have been obvious for one ordinary skill in the art at the time the invention was made to modify the monitoring machine of Cadden with the master file server of Akizawa

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for the reason that when access objective file of respective client computers are stored in separate file servers, it become possible to distribute load, thus improve the access throughput.

It is worth mentioning that in this arrangement, the client computer (*requesting computer*), the master file server (*managing computer*), and the client computer (*target computer, and source computer*) are separate computers (as to the specific limitation of claims 37, and 42.

Additionally, since the I/O device of Cadden is a Read/write device, it is a target when data is written to, and source when data is read form.

As to claims 38 and 43 as it is well known in the art, in a file transfer system when the request file is a read file the location is a source and when the request is a write file the location is a target. In the system of Akizawa, client 10 requesting read file (say from file server 210, file storage 710), client 20 requesting a write file (say from file server 220, storage 720), master file server (managing computer), requesting computer (10, 20), managing computer (master file server), the source computer (target computer, file server 210), and target computer (file server 220) are all separate computers.

As to claims 39 and 44 and 45, in the system of Akizawa, when the client 10, request a read file, and client 20 and/or 30 request a write file request, the source server (say, file storage 710, responding to the read file request) and target server (say, 720, responding to write request) and managing computer (master file server) are separate computers.

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Per claims 40 and 41, when the request is a write file the client computer (request computer) and source computer are the same computer, and inversely, when the client request is a read file, the request computer and target computer are the same computer.

As to claims 52, and 53, when the requesting computer is a write file request (client 10, has a write request) and therefore is a source computer, and the file server 210 (say into the file storage 710) is the target computer, and the master file server 100 are separate computers.

3. Applicant on page 6 of his REMARKS argues by substance:

“Cadden does not disclose a managing computer, requesting computer, and target computer as recited in the claims, where these computers are separate and independent computers.

Cadden discloses a system with three machines 21, 22, and 23, which may be individual computers (see FIG. 2, col. 3, lines 55-60). Machines 21, 22, and 23 respectively include a file transfer client 24, file transfer server 26, and monitor program 40 (see FIG. 2). Cadden discloses that the monitor program 40 communicates with the file transfer client 24 and the file transfer server 26 to access client monitor information (col. 4, lines 27-35). The monitor information includes the name of the file transferred, and other information regarding the file transfer (col. 4, lines 35-43). The Office Action equates the machine 23 of Cadden with the managing computer of claims 37 and 42. In contrast to claims 37 and 42, however, **Cadden does not disclose that the machine 23 receives a file transfer request, identifies the location of the data file, or passes the transfer request to that location.**

Cadden also discloses a file transfer procedure in Figures 3A to 3C and col. 5, line 47 to col. 6, line 49. This file transfer procedure appears to be between the client and server, i.e. between machines 21 and 22. In contrast to claims 37 and 42, however, **this file transfer procedure does not indicate that machine 23 receives a file transfer request, identifies the location of the data file, or passes the transfer request to that location.**

Moreover, while the monitor program 40 of the machine 23 of Cadden accesses client monitor information and server monitor information (col. 4, lines 27-43), this information only suggests that the machine 23 monitors the file transfer between the machines and 22. **The monitor information does not suggest that the machine 23 acts to receive a file transfer request, identify the location of the data file, or pass the transfer request to that location.** For at least this reason, claims 37 and 42 are patentable over Cadden” [emphasis added not in original].

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In response, applicant attention is respectfully directed to the rejection 35 USC 103 over Cadden in view of Akizawa above. In response to the argument that Cadden does not teaches the machine 23 receives a file transfer request, identifies the location of the data file, to passes the transfer request to that location, it is submitted that the reference of Akizawa teaches of a managing computer (MASTER FILE TRANSFER) that identifies the location and passes the request to the location (See Akizawa, col. 2, lines 66-68, continued on col. 3, there are provided further in addition to the above, in a specific file server among the plurality of file servers, a second communication control means for controlling communication with the client computer mentioned above, a remote file access processing means for administrating communication protocol of the file access request issued from the client computer, a load information monitoring means for measuring respective loads of the plurality of file servers, and a file access request distributing means for selecting a file server making file access from the plurality of file servers by referring to the loads measured by the load information monitoring means, issuing a file access request to the file access control means of its own file server when the selected file server is its own file server, and issuing a file access request to the file access control means of the selected file server.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Majid A. Banankhah** whose voice telephone number is **(703) 308-6903**. A voice mail service is also available at this number.

All response sent to U.S. Mail should be mailed to:

Commissioner of Patent and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA, Six Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses to the Examiner.

All Formal or Official Faxes must be signed and sent to either (703) 308-9051 or (703) 308-9052. Official faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the office, e.g., Finance Division for fee charging, etc.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-9600**.

Majid Banankhah

02/09/04

Majid A. Banankhah
MAJID A. BANANKHAH
PRIMARY EXAMINER